

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE:	§	Case No. 23-34815 (JPN)
GALLERIA 2425 Owner, LLC.	§	
Debtor	§	Chapter 11

**MOTION FOR RECONSIDERATION OF FINAL ORDER AUTHORIZING USE OF  
CASH COLLATERAL**

This motion seeks an order that may adversely affect you. If you oppose the motion, you should immediately contact the moving party to resolve the dispute. If you and the moving party cannot agree, you must file a response and send a copy to the moving party. You must file and serve your response within 21 days of the date this was served on you. Your response must state why the motion should not be granted. If you do not file a timely response, the relief may be granted without further notice to you. If you oppose the motion and have not reached an agreement, you must attend the hearing. Unless the parties agree otherwise, the court may consider evidence at the hearing and may decide the motion at the hearing.

Represented parties should act through their attorney.

TO THE HONORABLE U.S. BANKRUPTCY JUDGE:

COMES NOW 2425 WL, LLC (“Movant”) and files this Motion for

Reconsideration of Final Order Authorizing Use of Cash Collateral and would show as follows:

1. Order to Be Reconsidered: Final Order Authorizing Trustee to Use Cash Collateral (Dkt. #187).
2. Date Order Entered: March 5, 2024.
3. Specific Provisions at Issue:
  3. *Stipulations and Agreements.* In consideration for the relief granted in this Order, the Trustee, on behalf of the Estate, and NBK stipulate and agree to the following:
    - a. *NBK Claim.* On May 23, 2018, the Debtor issued a note to NBK in the amount of \$51,675,000.00 (the “NBK Note”). Subject to any claims,

offsets, or affirmative defenses to the NBK Note or the Debtor's obligations thereunder, NBK was entitled to \$63,552,988.00 under the NBK Note on the Petition Date (the "NBK Claim"). The Trustee, on behalf of the estate, reserves all rights to challenge the amount or allowance of the NBK Claim, or seek to equitably subordinate that claim, up to ten (10) days before a hearing on any plan of reorganization for the Debtor is first scheduled for hearing with any such challenge to be heard and determined in connection with that hearing.

b. *NBK Liens and Security Interests.* The Debtor's obligations to NBK are secured pursuant to the Deed of Trust, Assignment of Leases and Rents and Profits, Security Agreement and Fixture filing (the "NBK Deed of Trust") and Absolute Assignment of Leases and Rents (the "NBK Assignment of Rents"), both of which were filed in the real property records of Harris County, Texas, prior to the Petition Date. NBK has a valid, enforceable, and properly perfected security interest in the Premises pursuant to the NBK Deed of Trust that has priority over any other lien or security interest, except any lien pursuant to Chapter 32 of the Texas Tax Code. NBK also has a valid, enforceable, and properly perfected security in the rents from leases of the Premises pursuant to the Deed of Trust and the NBK Assignment of Rents. The value of NBK's collateral does not exceed the amount it is owed.

4. *Effect of Stipulations and Agreements.* The Trustee's acknowledgments and stipulations in this order shall be binding on the Trustee, the Estate, and their respective representatives, successors, and assigns in all circumstances. *The stipulations contained in this Order shall be binding upon all other parties in interest and all of their respective successors and assigns.* (emphasis added).

4. Argument and Authorities. 2425 WL, LLC objected to the Final Order

Authoring Trustee to Use Cash Collateral on the basis that it granted third party releases. The Trustee and NBK denied that the Final Order contained third party releases. Indeed, they expressed indignation that such an argument could be asserted. However, the italicized language in paragraph 4 shows that third party rights are being waived without consideration or due process. The stipulations in paragraphs 3(a) and 3(b) might be innocuous if they only contained stipulations between the Trustee and NBK. However, the language in paragraph 4 expressly states that the stipulations "shall be binding upon all other parties in interest and all of their respective successors and assigns." Thus, the Trustee is not just seeking to bind

himself but all parties in interest.

5. The stipulation in paragraph 3(a) states that the Trustee may object to the claim of NBK under certain circumstances. However, under 11 U.S.C. Sec. 502(a), a claim is allowed unless “a party in interest” objects. Thus, the stipulation reduces the universe of parties who may object to just the Trustee. As a result, the ability of parties in interest who are not the trustee to object to NBK’s claim is eliminated without due process or consideration. The Court should also clarify that the stipulation allowing NBK’s claim does not affect the rights of third parties who might hold direct claims against NBK.

6. Para. 3(b) establishes that NBK’s lien is superior to all liens other than those of tax liens. 2425 WL, LLC has a pending adversary proceeding seeking equitable subordination of NBK’s lien to that of 2425 WL, LLC. NBK and the Trustee assert that equitable subordination does not relate to lien priority. However, that is exactly the substance of what equitable subordination seeks to accomplish.

7. Relief Requested: Delete the language from paragraph 4 stating that “*The stipulations contained in this Order shall be binding upon all other parties in interest and all of their respective successors and assigns.*”

Respectfully Submitted,

**BARRON & NEWBURGER, P.C.**  
7320 N. MoPac Expwy., Suite 400  
Austin, Texas 78731  
Tel: (512) 476-9103

By: /s/ Stephen W. Sather  
Stephen W. Sather

State Bar No.

**ATTORNEYS FOR  
CREDITOR, 2425 WL,LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Response was served on the 19th day of April, 2024 to the parties on the attached list.

/s/ Stephen W. Sather  
Stephen W. Sather

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE:	§	Case No. 23-34815 (JPN)
GALLERIA 2425 Owner, LLC.	§	
Debtor	§	Chapter 11

**ORDER GRANTING MOTION FOR RECONSIDERATION OF FINAL ORDER  
AUTHORIZING USE OF CASH COLLATERAL**

CAME ON TO BE CONSIDERED the Motion for Reconsideration of Final Order Authorizing Use of Cash Collateral. The Court finds that such motion should be GRANTED.

IT IS THEREFORE ORDERED that the following language is deleted from paragraph 4 of the Final Order Authorizing Trustee to Use Cash Collateral (Dkt. #187):

The stipulations contained in this Order shall be binding upon all other parties in interest and all of their respective successors and assigns.

IT IS FURTHER ORDERED that nothing contained in the Final Order Authorizing Trustee to Use Cash Collateral shall limit third party claims against the National Bank of Kuwait.

Signed: \_\_\_\_\_

\_\_\_\_\_  
JEFFREY P. NORMAN  
U.S. BANKRUPTCY JUDGE

Label Matrix for local noticing  
0541-4  
Case 23-34815  
Southern District of Texas  
Houston  
Tue Apr 2 15:56:17 CDT 2024

City of Houston  
Linebarger Goggan Blair & Sampson LLP  
c/o Tara L. Grundemeier  
PO Box 3064  
Houston, TX 77253-3064

Houston Community College System  
Linebarger Goggan Blair & Sampson LLP  
c/o Tara L. Grundemeier  
PO Box 3064  
Houston, TX 77253-3064

4  
United States Bankruptcy Court  
PO Box 61010  
Houston, TX 77208-1010

Ali Choudhry  
1001 West Loop South 700  
Houston, TX 77027-9084

CNA Insurance Co  
PO Box 74007619  
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City of Houston  
PO Box 1560  
Houston, TX 77251-1560

Datawatch Systems  
4520 East West Highway 200  
Bethesda, MD 20814-3382

Firetron  
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HNB Construction, LLC  
521 Woodhaven  
Ingleside, TX 78362-4678

2425 WL, LLC  
2425 West Loop South 11th floor  
Houston, TX 77027-4304

Galleria 2425 Owner, LLC  
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Houston, TX 77027-9084

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2425 WL, LLC  
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Austin, TX 78729-4422

Ash Automated Control Systems, LLC  
PO Box 1113  
Fulshear, TX 77441-2013

Caz Creek Lending  
118 Vintage Park Blvd No. W  
Houston, TX 77070-4095

City of Houston  
c/o Tara L. Grundemeier  
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Houston, TX 77253-3064

Environmental Coalition Inc  
PO Box 1568  
Stafford, TX 77497-1568

First Insurance Funding  
450 Skokie Blvd  
Northbrook, IL 60062-7917

Harris County Tax Assessor  
PO Box 4622  
Houston, TX 77210-4622

CC2 TX, LLC  
c/o Howard Marc Spector  
Spector & Cox, PLLC  
12770 Coit Road Suite 850  
Dallas, TX 75251-1364

(p)HARRIS COUNTY ATTORNEY'S OFFICE  
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HOUSTON TX 77252-2928

National Bank of Kuwait, S.A.K.P., New York

ADT  
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Pittsburgh, PA 15251-8109

CFI Mechanical, Inc  
6109 Brittmoore Rd  
Houston, TX 77041-5610

Cirro Electric  
PO Box 60004  
Dallas, TX 75266

Comcast  
PO Box 60533  
City of Industry, CA 91716-0533

Ferguson Facilities Supplies  
PO Box 200184  
San Antonio, TX 78220-0184

Gulfstream Legal Group  
1300 Texas St  
Houston, TX 77002-3509

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Logix Fiber Networks PO Box 734120 Dallas, TX 75373-4120	MacGeorge Law Firm 2921 E 17th St Bldg D Suite 6 Austin, TX 78702-1572	Mueller Water Treatment 1500 Sherwood Forest Dr. Houston, TX 77043-3899
National Bank of Kuwait 299 Park Ave. 17th Floor New York, NY 10171-0023	Nationwide Security 2425 W Loop S 300 Houston, TX 77027-4205	Nichamoff Law Firm 2444 Times Blvd 270 Houston, TX 77005-3253
Rodney L. Drinnon 2000 West Loop S, Ste. 1850, Houston, Texas 77027-3744	TKE 3100 Interstate North Cir SE 500 Atlanta, GA 30339-2296	U.S. Trustee's Office 515 Rusk, Suite 3516 Houston, Texas 77002-2604
US Retailers LLC d/b/a Cirro Energy Attention: Bankruptcy Department PO Box 3606 Houston, TX 77253-3606	US Trustee Office of the US Trustee 515 Rusk Ave Ste 3516 Houston, TX 77002-2604	Waste Management PO Box 660345 Dallas, TX 75266-0345
Zindler Cleaning Service Co 2450 Fondren 113 Houston, TX 77063-2314	Ali Choudhri 24256 West Loop South 11th Floor Houston, TX 77027	Christopher R Murray Jones Murray LLP 602 Sawyer St Ste 400 Houston, TX 77007-7510
James Q. Pope The Pope Law Firm 6161 Savoy Drive Ste 1125 Houston, TX 77036-3343	Reese W Baker Baker & Associates 950 Echo Lane Suite 300 Houston, TX 77024-2824	Rodney Drinnon McCathern Houston 2000 W Loop S Ste. 1850 Houston, TX 77027-3744

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

Harris County, ATTN: Property Tax Division Harris County Attorney's Office P.O. Box 2928 Houston, TX 77252-2928 United States	(d)Harris County, et al PO Box 2928 Houston, TX 77252
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